

**25253. Adulteration and misbranding of apple jelly, and misbranding of apple butter. U. S. v. Albert Burkner and Charles E. H. Brown (Waynesboro Fruit Exchange). Pleas of guilty. Fines, \$37.50 against each of the two defendants. (F. & D. no. 31530. Sample nos. 26444-A, 36445-A, 26446-A, 26447-A, 30163-A, 30230-A, 30231-A, 30232-A, 30419-A.)**

This case was based (1) on interstate shipments of a product which was labeled as "apple jelly currant [or raspberry or strawberry] flavored"; whereas it was in fact an imitation currant, raspberry, or strawberry jelly artificially flavored; and (2) interstate shipments of apple butter, the packages of which were short in weight.

On September 18, 1934, the United States attorney for the Middle District of Pennsylvania, acting on a report by the Secretary of Agriculture, filed in the district court an information against Albert Burkner and Charles E. H. Brown, trading as the Waynesboro Fruit Exchange, Waynesboro, Pa., charging shipment by said defendants in violation of the Food and Drugs Act, from the State of Pennsylvania into the State of Maryland, on or about November 11, 1932, and January 6 and February 2 and 10, 1933, of quantities of an article, labeled as apple jelly, which was adulterated and misbranded; and on or about February 2, 10, and 13, 1933, of quantities of apple butter which was misbranded. The so-called apple jelly, contained in jars, was labeled, variously: "Eclipse Brand Contents 5 oz. [or "4½ oz."] Apple Jelly Currant [or "Raspberry", or "Strawberry"] Flavored [or "Flavor"] Artificially Colored Waynesboro Fruit Exchange Waynesboro, Pa." The apple butter, contained in jars, was labeled: "Eclipse Brand Contents 16 oz. Pure Apple Butter Made from Fresh Washed Apples, Pure Apple Cider, Sugar and Spices. Waynesboro Fruit Exchange Waynesboro, Pa."

It was alleged that the so-called apple jelly was adulterated (1) in that an imitation currant, raspberry, or strawberry jelly artificially flavored and artificially colored had been substituted for apple jelly currant-, raspberry-, or strawberry-flavored, which the article purported to be; and (2) in that it was an article inferior to apple jelly currant-, raspberry-, or strawberry-flavored, being an imitation currant, raspberry, or strawberry jelly artificially flavored and artificially colored with a coal-tar dye or dyes, so as to simulate the taste and appearance of apple jelly currant-, raspberry-, or strawberry-flavored, and in a manner whereby its inferiority to apple jelly currant-, raspberry-, or strawberry-flavored was concealed. Misbranding of the so-called apple jelly was charged in that the statement, "Apple Jelly Currant [or "Raspberry" or "Strawberry"] Flavored [or "Flavor"]", borne on the labels on the jars, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive or mislead the purchaser, since the statement represented that the article was apple jelly currant-, or raspberry-, or strawberry-flavored; whereas in fact it was not apple jelly currant-, or raspberry-, or strawberry-flavored, but was an imitation currant, raspberry, or strawberry jelly artificially flavored; and (3) in that the article was a mixture prepared in imitation of apple jelly currant-, or raspberry-, or strawberry-flavored and was offered for sale and sold under the name of another article, namely, "apple jelly currant [or raspberry or strawberry] flavored."

It was alleged that the apple butter was misbranded in that the statement "Contents 16 oz.", borne on the labels, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since the contents of the jars contained less than 16 ounces of the article.

On October 18, 1934, the defendants entered pleas of guilty to the information and the court imposed a fine of \$37.50 on each of the two defendants.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**25254. Misbranding of canned peas. U. S. v. Crites Milling Co. Plea of guilty. Fine, \$10. (F. & D. no. 32122. Sample no. 42373-A.)**

This case was based on an interstate shipment of canned peas which were represented on the labels as sugar peas, when they were in fact Alaska peas of low standard of quality.

On June 7, 1934, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Crites Milling Co., a corporation, Circleville, Ohio, charging shipment by said corporation, in violation of the Food and Drugs Act, on or about June 26, 1933, from the State of Ohio into the State of Indiana, of a quantity of canned peas which were misbranded. The article was

labeled in part: "Merrit Brand [design of cluster of peas in pod] Sugar Peas Contents 1 Lb. 1 Oz. Packed for A. H. Perfect & Co. The Eavy Co. Ft. Wayne, Richmond, Huntington, Ind. Xenia, Ohio. Sturgis, Mich."

The article was alleged to be misbranded in that the statement "Sugar Peas", borne on the labels, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since the statement represented that the article was sugar peas, that is, sweet peas; whereas it was in fact not such a product but was the Alaska variety of peas of low standard of quality.

On December 3, 1935, a plea of guilty was entered on behalf of defendant corporation and the court imposed a fine of \$10.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**25255. Adulteration and misbranding of olive oil. U. S. v. Delizia Olive Oil Co., Inc., and Salvatore Esposito and Raymond Muscarella. Pleas of guilty. Fine of \$1,200 suspended. (F. & D. no. 32206. Sample nos. 43647-A, 43649-A, 51303-A, 51326-A.)**

This case was based on interstate shipments of an article which purported to be olive oil, but which consisted chiefly of cottonseed oil, and the packages of which were short in volume.

On October 24, 1935, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Delizia Olive Oil Co., a corporation, New York, N. Y., and Salvatore Esposito and Raymond Muscarella, officers and agents of said corporation, charging shipment by said defendants, in violation of the Food and Drugs Act, on or about July 17, August 2, August 8, and October 9, 1933, from the State of New York into the State of New Jersey, of quantities of an article contained in cans, consisting chiefly of cottonseed oil, which was adulterated and misbranded. The article in the shipments of July 17, August 2, and August 8, 1933, were labeled in part: "One Gallon Net Olio Finissimo Garantito La Deliziosa Brand Premiato All' Esposizione Di Roma 1924 Italia This Delicious Oil is Recommended for Sauce, Frying, Kitchen and Table Use Vegetable Oil ES [designs of olive branches and of medals bearing likeness of King Emanuel III of Italy]." The article in the shipment of October 9, 1933, was labeled in part: "One Gallon Olio Extra Fino Garantito Farfariello Brand Olio Fino [design of olive branches] Packed by Delizia Olive Oil Inc. Premiato All' Esposizione Di Roma 1924 Italia High grade vegetable oil with flavor. Farfariello Brand This Delicious Oil is Recommended for Frying, Kitchen Sauce and Table Use Quest' Olio Delizioso e Raccomandato Specialmente per Fritture, Tavola, Salse e per Tutti gli Usi di Cucina. D O O Inc."

The article in all four of the shipments was alleged to be adulterated in that a product consisting chiefly of cottonseed oil had been substituted for olive oil which the article purported to be; and in that a substance, cottonseed oil, had been mixed and packed with the article so as to reduce and lower and injuriously affect its quality.

The article in all four of the shipments was alleged to be misbranded in that, consisting almost wholly of cottonseed oil, it was an imitation of another article, olive oil, which it purported to be. It was alleged that the article in three of the four shipments, namely, those of July 17, August 2, and August 8, 1933, was misbranded in that the statements, "Olio Finissimo. Garantito La Deliziosa Brand Premiato All' Esposizione Di Roma 1924 Italia", together with designs of olive branches and designs of medals bearing the likeness of King Emanuel III of Italy, borne on the label, were false and misleading, and by reason of said statements and designs the article was labeled and branded so as to deceive and mislead the purchaser, since the statements and designs represented that the article consisted solely of olive oil produced in and imported from Italy; whereas in fact the article consisted almost wholly of cottonseed oil. It was alleged that the article in one of the four shipments, namely, that of October 9, 1933, was misbranded in that the statements, "Olio Extra Fino Garantito Farfariello \* \* \* Delizia Olive Oil \* \* \* Premiato All' Esposizione Di Roma 1924 Italia", together with designs of olive branches, borne on the label, were false and misleading, and by reason of said statements and designs the article was labeled and branded so as to deceive and mislead the purchaser, since the statements and designs represented that the article consisted solely of olive oil produced and imported